

INTERNET
FORM NLRB-601
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER


FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case
5-CA-121638Date Filed
1/30/14

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer FWL & Sons Inc. d/b/a McDonald's & McDonald's Corp. as Joint and Single Employers	b. Tel. No. (804) 746-2976
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) FWL & SONS INC. 4100 Brook Road Richmond, VA 23227 & 2111 McDonald's Drive Oak Brook, IL 00523	e. Employer Representative (b) (6), (b) (7)(C) & Gloria Santana
	g. e-Mail
	h. Number of workers employed Over 400,000
i. Type of Establishment (factory, mine, wholesaler, etc.) Restaurant	j. Identify principal product or service Fast Food
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (1st subsections) 8(a)(1) and 8(a)(3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) On or about (b) (6), (b) (7)(C) 2014, employer through (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), unlawfully terminated (b) (6), (b) (7)(C) for participating in protected union activity.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Southern Workers Organizing Committee	
4a. Address (Street and number, city, state, and ZIP code) 324 S. Wilmington St., #207 Raleigh, NC 27601	4b. Tel. No. (919) 389-6986
	4c. Cell No.
	4d. Fax No.
	4e. e-Mail guillermo.zamora195@gmail.com
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	
8. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  (signature of representative or person making charge)	Attorney Mickey Okun (Print/type name and title or office, if any)
Address 100 Europa Dr., Suite 250 Chapel Hill, NC 27517	
1.30.14 (date)	
Tel. No. (919) 942-5200	
Office, if any, Cell No. (919) 815-6092	
Fax No. (919) 942-5256	
e-Mail mokun@pathlaw.com	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410)962-2822
Fax: (410)962-2198

January 31, 2014

Ms. Gloria Santona
McDonald's Corp.
2111 McDonald's Drive
Oak Brook, IL 00523

(b) (6), (b) (7)(C)

FWL & Sons Inc.
4100 Brook Road
Richmond, VA 23227

Re: FWL & Sons, Inc. d/b/a McDonald's and
McDonald's Corp as Joint and Single
Employer
Case 05-CA-121638

Dear Ms. Santona and (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916. If Patrick J. Cullen is not available, you may contact Deputy Regional Attorney Paula Sawyer whose telephone number is (410) 962-2909.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as

January 31, 2014

possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

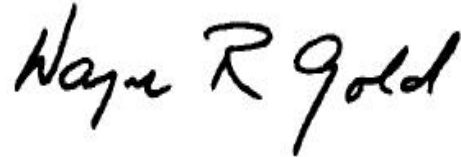
Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

FWL & Sons, Inc. d/b/a McDonald's and - 3 -
McDonald's Corp as Joint and Single
Employer
Case 05-CA-121638

January 31, 2014

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Wayne R Gold". The signature is written in a cursive, slightly slanted style.

Wayne R. Gold
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME FWL & Sons, Inc. d/b/a McDonald's and McDonald's Corp as Joint and Single Employer	CASE NUMBER 05-CA-121638
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**
☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)
3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS** (Products handled or manufactured, or nature of services performed).**7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)**YES****NO**A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months**? If yes, specify date: _____**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FWL & SONS, INC.

Charged Party

and

**SOUTHERN WORKERS ORGANIZING
COMMITTEE**

Charging Party

Case 05-CA-121638

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on January 31, 2014, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

FWL & Sons Inc.
4100 Brook Road
Richmond, VA 23227

Ms. Gloria Santona
McDonald's Corp.
2111 McDonald's Drive
Oak Brook, IL 00523

January 31, 2014

Date

Lalitta Gillis, Designated Agent of NLRB

Name

/s/ Lalitta Gillis

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

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Fax: (410)962-2198

January 31, 2014

Michael G. Okun, Esq.
Patterson Harkavy LLP
100 Europa Drive, Suite 250
Chapel Hill, NC 27517-2310

Lauren Bonds, Esq.
Security Employees International Union
1800 Massachusetts Avenue, N.W.
Washington, DC 20036

Re: FWL & Sons, Inc. d/b/a McDonald's and
McDonald's Corp as Joint and Single
Employer
Case 05-CA-121638

Dear Mr. Okun and Ms. Bonds:

The charge that you filed in this case on January 30, 2014 has been docketed as case number 05-CA-121638. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Patrick J. Cullen whose telephone number is (410) 962-2916. If Patrick J. Cullen is not available, you may contact Deputy Regional Attorney Paula Sawyer whose telephone number is (410) 962-2909.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession.

January 31, 2014

Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Wayne R Gold". The signature is written in a cursive, slightly slanted style.

Wayne R. Gold
Regional Director

cc: Southern Workers Organizing Committee
324 S. Wilmington Street, #207
Raleigh, NC 27601

CHARGE ASSIGNMENT SHEET (EMPLOYER)

Case No.: 5-CA -

12/6/38

CASE NAME: FWL & Sons, Inc. d/b/a McDonald's and McDonald's Corp. as Joint and Single Employer

DATE FILED:

1-30-14

CATEGORY:

☐ I ☐ II ☒ III

Potential 10(j)

no

8(a)(2) (indicated name of union):

discriminatees

8(a)(3): 1

of Employees (if not currently on charge) 400,000

IO charge? Yes: ☐ No: ☒

Dispute City: Richmond

Dispute State: VA

COMMENTS:

See attached for service

Barg Status:

- ☐ Existing Contract
- ☐ Expired Contract
- ☐ Initial Contract
- ☒ None
- ☐ Organizational Campaign
- ☐ Succeeding Contract

SUPERVISOR:

Sawyer

AGENT:

Cullen

8(a)(1)

- ☐ Coercive Actions (Surveillance, etc)
- ☐ Coercive Rules
- ☐ Coercive Statements (Threats, Promises of Benefits, etc.)
- ☒ Concerted Activities (Retaliation, Discharge, Discipline)
- ☐ Denial of Access
- ☐ Discharge of supervisor (Parker-Robb Chevrolet)
- ☐ Interrogation (including Polling)
- ☐ Lawsuits
- ☐ Weingarten

8(a)(4)

- ☐ Changes in Terms and Conditions of Employment
- ☐ Discharge (including Layoff and Refusal to Hire)
- ☐ Discipline
- ☐ Refusal to Reinstate Employee/Striker
- ☐ Shutdown or Relocate/ Subcontract Unit Work

8(a)(2)

- ☐ Assistance
- ☐ Domination
- ☐ Unlawful Recognition

8(a)(5)

- ☐ Alter Ego
- ☐ Failure to Sign Agreement
- ☐ Refusal to Bargain/Bad Faith Bargaining (incl'g surface bargaining/direct dealing)
- ☐ Refusal to Furnish Information
- ☐ Refusal to Hire Majority
- ☐ Refusal to Recognize
- ☐ Repudiation/Modification of Contract[Sec 8(d)/Unilateral Changes
- ☐ Shutdown or Relocate (e.g. First National Maint.).Subcontract Work

8(a)(3)

- ☐ Changes in Terms and Conditions of Employment
- ☒ Discharge (Including Layoff and Refusal to Hire (not salting))
- ☐ Discipline
- ☐ Lockout
- ☐ Refusal to Consider/Hire Applicant (salting only)
- ☐ Refusal to Reinstate E'ee/Striker (e.g. Laidlaw)
- ☐ Retaliatory Lawsuit
- ☐ Shutdown or Relocate/ Subcontract Unit Work
- ☐ Union Security Related Actions

8(e)

- ☐ All Allegations against a Labor Organization
- ☐ All Allegations against an Employer

Probed By DJ

From: [Lauren Bonds](#)
To: [Cullen, Patrick](#)
Subject: Re: (b) (6), (b) (7)(C) Statement re: 05-CA-121638
Date: Monday, February 10, 2014 8:41:36 AM

Hi Patrick,

That time will work. Below is Guillermo Zamora's phone number in case of emergency. There will be no other witnesses.

[703-629-2199](tel:703-629-2199)

On Fri, Feb 7, 2014 at 11:03 AM, Cullen, Patrick <Patrick.Cullen@nlrb.gov> wrote:

Hi Lauren:

Let's plan on (b) (6), (b) (7)(C) at the Union hall.

Please make sure that (b) (6), brings any documents (b) may have that are relevant to this charge (e.g. termination notice, employee handbook, copies of any discipline, information about (b) participate in the strike, etc.)

Also, please let me know if the Union intends to present any other witnesses in support of this charge, such as other employees or Union representatives.

Can you give me the name and phone number of a local Union contact in case there are any problems next Wednesday?

Thanks.

Patrick J. Cullen | Senior Field Attorney

National Labor Relations Board, Region 5

Bank of America Center - Tower II

100 South Charles Street, Suite 600

Baltimore, MD 21201

Tel: [\(410\) 962-2916](tel:(410)962-2916)

Fax: [\(410\) 962-2198](tel:(410)962-2198)

www.nlr.gov

From: Lauren Bonds [mailto:lauren.bonds@seiu.org]
Sent: Friday, February 07, 2014 8:55 AM
To: Cullen, Patrick
Subject: (b) (6), (b) (7)(C) Statement re: 05-CA-121638

Hi Patrick,

I hope you are doing well. I just wanted to send you the address of the union hall (**1716 E Franklin, Richmond VA**) and see if you had found a time that will work for (b) (6), statement.

Thanks

Lauren

--

Lauren Bonds

Law Fellow

Service Employees International Union

--

Lauren Bonds

Law Fellow
Service Employees International Union

FWL & Sons, Inc. d/b/a McDonald's and
McDonald's Corp as Joint and Single
Employer
Case 05-CA-121638

Confidential Witness Affidavit

I, Affiant Name, being first duly sworn upon my oath, state as follows:

I have been given assurances by an agent of the National Labor Relations Board (NLRB) that this Confidential Witness Affidavit will be considered a confidential law enforcement record by the NLRB and will not be disclosed unless it becomes necessary to produce this Confidential Witness Affidavit in connection with a formal proceeding.

I reside at

My home telephone number (including area code) is:

My cell phone number (including area code) is:

My e-mail address is:

I am or was employed by

located at

I am being provided a copy of this Confidential Witness Affidavit for my review. I understand that this affidavit is a confidential law enforcement record and should not be shown to any person other than my attorney or other person representing me in this proceeding.

I have read this Confidential Witness Affidavit consisting of 1 pages, including this page, I fully understand it, and I state under penalty of perjury that it is true and correct.

Privacy Act Statement

The NLRB is asking you for the information on this form on the authority of the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the NLRB in processing representation and/or unfair labor practice cases and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). Additional information about these uses is available at the NLRB website, www.nlrb.gov. Providing this information to the NLRB is voluntary. However, if you do not provide the information, the NLRB may refuse to continue processing an unfair labor practice or representation case, or may issue you a subpoena and seek enforcement of the subpoena in federal court.

However, if after reviewing this affidavit again, I remember anything else that is important or I wish to make any changes, I will immediately notify the Board agent.

Date: February 11, 2014

Signature: _____

[Affiant Name]

Signed and sworn to before me on .

(date)

at

(city and state)

PATRICK J. CULLEN

Board Agent

National Labor Relations Board

CHECKLIST FOR 8(a)(1) Allegations

Note: This checklist is intended as an aid to identify some key areas to cover in an affidavit and is *not* a comprehensive list of questions or issues. Other areas to include in the affidavit will be determined by legal research and by responses to the items in the checklist.

I. Statements in a Conversation

- A. Date**
- B. Time (and duration if the conversation was prolonged)**
- C. Place (at work station, in office, in smoking area)**
- D. Who was present (including those who did not participate but may have overheard the conversation)?**
- E. Who spoke? (Get details to establish speaker is supervisor or agent)**
- F. What was said?**
 - 1. Who initiated the conversation?
 - 2. What was the response, if any, to potential violative statements?
 - 3. No conclusions such as “he threatened me.” What were the actual words used, as best the witness recalls?
- G. Aware of other similar statements being made to anyone else?**
- H. Did witness tell anyone about the statement? If so, when, and who?**

II. Statements in a *Speech*

- A. Get information described in I. A- D above**
- B. Did speaker read from prepared text? Did speaker ad-lib or deviate?**
- C. Were questions allowed? If so, find out who asked the questions and what responses were provided**
- D. Was anyone given a copy of the speech? If so, who?**
- E. Was speech recorded? If so, by whom?**
- F. Get statements from a substantial or representative number of people who heard speech and, if prepared text used, obtain copy for use during interviews (Number to be interviewed depends on size of audience)**
- G. Interview those who were given copies to “read along” with speaker, find out if they signed or initialed the copies they read, etc.**

III. Written Statements

- A. Get copy of statement**
- B. Obtain details of distribution**

1. How (mail, attached to paycheck, etc.)
2. When (if document is dated, about that same date?)
3. By whom (supervisors?)
4. To whom (all employees in a certain department; all employees)

IV. Polling of Employees

- A. Who conducted the poll?
- B. Who was present when the poll was conducted?
- C. When was the poll conducted?
- D. Where was the poll conducted?
- E. How (exactly) was poll conducted? Was it by secret ballot?
- F. Was employee told the purpose of the poll was to determine the truth of a union's claim of majority? If not, what was the employee told?
- G. What was employee told about retaliation or reprisal against the employee?
- H. Did the employee sign anything before participating in the poll? If yes, does the employee have a copy or recall what the statement said?

V. Surveillance of Union or Protected Activity

- A. Who engaged in the surveillance? Who else witnessed the conduct?
- B. When did it occur (date and time of day)
- C. What did person do? (e.g. watched from a parked vehicle, drove back and forth, videotaped, wrote down license plate tags, etc.)
- D. Where was the union or protected activity? (e.g. union hall, restaurant, etc.)
- E. Was the location of the union or protected activity near the Employer's facility, on a main road?
- F. Is the employee aware of any possible reason for the supervisor to be in the area of the union or protected activity? (e.g. on the supervisor's way home?)

VI. Discipline or Discharge Because of Protected Concerted Activity

- A. Is the activity protected?
 1. What was the activity?
 2. Is the subject matter of the activity something to do with wages, hours, or working conditions, i.e. is the activity protected?

3. Did the employee do anything that would arguably cause the employee to lose the protection of the Act? (Threats, slowdowns)
 - a. If even arguable, get all the specifics of the conduct and identify all potential witnesses

B. Is the activity concerted?

1. Did the employee talk to other employees about the subject, i.e. is the activity concerted? If yes,
 - a. When did those conversations take place?
 - b. Where did those conversations take place?
 - c. Who was present for those conversations?
 - d. What was said?
2. Did the employee engage in any conduct with other employees regarding the concern about wages, hours or working conditions (e.g. a protest, strike, walkout)? Did the employee speak on behalf of other employees?
3. Did the statements or conduct occur during an employee meeting? If yes, did other employees support or disavow the employee's comments or conduct and/or make similar comments or engage in similar conduct?
4. Is there a collective-bargaining agreement covering the employee?
 - a. If yes, was the conduct in furtherance of any contractual right? If so, get a copy of the contract and have the employee specify which provision of the contract is involved

C. Did the Employer know about the protected, concerted activity?

1. When and how did the Employer learn? Any corroboration?
2. Which supervisor or agent learned of the protected activity?
3. What did the supervisor or agent say?

D. Did the Employer admittedly discipline the employee because of the protected concerted activity?

1. If yes, identify all witnesses and obtain copies of all documents establishing that the protected concerted activity was the reason for the discipline
2. If no, what reason was given for the discipline or discharge?
 - a. Is there animus toward the protected activity?
 - b. Is there evidence of disparate treatment?

VII. Discharge of Supervisor

A. Can violate 8(a)(1), if discharge is for:

1. Failure to carry out unfair labor practice activity for Employer
2. Testifying adversely to Employer's interests in Board proceedings

B. Obtain circumstances, as in an 8(a)(3) situation

VIII. Remedies

A. Does the Employer communicate with employees via e-mail or electronically?

B. Evidence of chill in potential 10(j) cases

CHECKLIST FOR 8(a)(3) Allegations

Note: This checklist is intended as an aid to identify some key areas to cover in an affidavit and is *not* a comprehensive list of questions or issues. Other areas to include in the affidavit will be determined by legal research and by responses to the items in the checklist.

I. Discipline or Discharge of an Employee

A. Overview of Employer's Operations

1. Nature of business
 - a. Number of employees at this facility
 - b. Overview of management hierarchy

B. Employment History

1. Date hired; by whom
2. Job classification and duties; pay rate, shift, and/or hours of work
3. Names and titles of relevant supervisors or agents (Get facts relating to supervisory or agent status)
4. Date of promotions, demotions, raises, and wage cuts
5. Seniority standing
6. Discipline prior to the alleged discriminatory conduct (Dates and particulars)
7. If employed a short time, was employee probationary?
8. Employee handbook (Get copy)
9. Collective-bargaining agreement (Get copy)

C. Conduct Alleged to be Violative (e.g. suspension, discharge)

1. When it occurred
2. Events immediately preceding the discriminatory act
3. If written discipline or discharge, what does the discipline say?
4. What reason was given and what was said when the discipline (written or oral) was issued?
5. Describe the incident that the Employer claimed prompted the discipline or discharge
6. Does the discriminatee admit or deny the conduct for which he or she was disciplined?

D. Discriminatee's Union Activity – (include a detailed description of conduct and date(s) when it occurred)

1. Union officer – steward, committeemen, etc.
2. Member of organizing committee
3. Signed card (Get date, location where received card, and how and when employee returned card)
4. Attended union meeting (get dates, place and others present)
5. Distributed union cards or literature
6. Wore union insignia (Describe when worn; how often; where worn)
7. Union stickers on vehicle, lunch box, etc.
8. Participated in strike or picketing
9. Witness or potential witness at NLRB hearing; election observer

E. Employer Knowledge of Discriminatee's Union Activity

1. Size of plant
2. Through conversations with or statements by supervisors
 - a. Get dates, times, places, those present, and precisely what was said
3. Observation by supervisor
 - a. Get dates, times, places and those present.
4. Through letter from union of organizing committee members
5. Relationship to known adherents

F. Causation

1. Statements showing anti-union sentiment
2. Timing
3. Pretext
 - a. Disparate treatment (include both the disparate treatment and Employer knowledge of the disparity)
 - b. Departure from past practice
 - c. Shifting explanations by the employer
 - d. Failure to investigate
 - e. Proffer of non-discriminatory explanation that is not true

G. Post Discharge Events

1. Did employee file for unemployment or file charges with EEOC or other agency?

2. Did Employer make statements to other employees regarding the reason for the discharge?
3. Did discriminatee file a grievance or participate in internal dispute resolution process? If yes, describe Employer's statements or positions, evidence presented, and outcome

II. Granting, Denying, or Removing a Benefit (or Other Term and Condition of Employment)

- A. What was the benefit (term)?
- B. When was decision made to grant, deny, or remove the benefit (term)?
- C. When was the decision to grant or deny, or remove the benefit (term) communicated to employees?
- D. When was the benefit (term) change implemented? Include timing in relation to union or concerted activity?
- E. Who received or was denied the benefit? All employees, or all employees in a certain classification, or only a few employees?
- F. What did Employer supervisors or agents say about granting, denying, or removing the benefit?
- G. What was past practice, if any, regarding this benefit?

III. Discharge Pursuant to a Union Security Clause

- A. Check the clause for validity
- B. Under what terms and conditions were employees generally admitted to membership in the Union?
 1. What, if any, variation was made in case of alleged discrimination?
- C. Was membership denied or terminated for reasons other than failure to tender periodic dues and initiation fees required of other employees?
 1. If so, what are the facts?
 2. If not, what are the facts surrounding failure to tender dues or initiation fees?

IV. Mass Layoffs or Discharges

- A. Compare Union activity of alleged discriminatee to union activity of those retained by the Employer
- B. What is past practice regarding layoffs and selection for layoffs?
- C. What reasons did Employer give employees for layoffs and their selection?

- D. **Is there any evidence to support or rebut reasons given by Employer for layoff and employees' selection?**
- E. **Prior to layoff, did employees observe or hear anything that would make layoff be likely or unlikely?**
- F. **Since the layoff, has anyone been hired or recalled from layoff?**

V. Failure to Recall from Strike

- A. **Were 8(d) or 8(g) (health care) notices given by either party?**
 - 1. If Union asserts that Employer locked out, evidence of same should be obtained (Source for information may be Federal Mediation and Conciliation Service)
- B. **Where strike is asserted to be unfair labor practice strike**
 - 1. Date strike began
 - 2. Evidence indicating cause of strike at the beginning and after any ulps
 - 3. Number of employees who joined strike at its beginning; number who did not
 - 4. Number of employees who have returned after striking; number of union and nonunion members in this category
 - 5. Number of employees who applied for reinstatement and have been refused
 - 6. Evidence indicating whether refusal to reinstate was discriminatory, where jobs were available
 - a. Attempts of parties to settle strike
 - b. Attempts of Employer agents to persuade individual strikers to return to work
 - c. Circumstances, terms, dates of any Union offer to return to work; i.e., what did offer consist of?
 - d. Did employees make individual offers to return to work? If so, how (verbal or in writing), to whom, what said, etc.?
 - e. Where Employer asserts that strike was in violation of no-strike clause in contract, (or unprotected or illegal for any reason):
 - i. Was there condonation of the strike? What was said to induce employees to return to work?
 - ii. What, if any, reservations did Employer make (e.g. return to work subject to Employer's investigation to ascertain who instigated strike so "appropriate action" can be taken)?

C. Where striker replaced, is replacement permanent or temporary?

1. What was replacement told at time of hire?
2. What did newspaper ads say?
3. Did replacement sign anything?
4. What job was replacement assigned?
5. What was replacement told by Employer about status?
6. What job assigned?

VI. Remedies

- A. Does Employer communicate with employees via e-mail or electronically**
- B. Evidence of chill in potential 10(j) cases**

From: [Cullen, Patrick](#)
To: [Lauren Bonds](#)
Subject: RE: Statements Tomorrow
Date: Tuesday, February 11, 2014 8:59:58 PM

Hi Lauren.

I finally made it here. Traffic around D.C. was pretty rough. Barring a foot of snow on the ground tomorrow morning, a zombie apocalypse, etc., I'll be at the Union hall tomorrow.

Patrick

Sent from my Verizon Wireless 4G LTE Smartphone

----- Original message -----

From: Lauren Bonds
Date: 02/11/2014 5:38 PM (GMT-05:00)
To: "Cullen, Patrick"
Cc: Guillermo Zamora
Subject: Statements Tomorrow

Hi Patrick,

I hope you are well. With the storm, I wanted to make sure that you will be able to make it tomorrow. You can let me know via email or call if anything changes.

Best,

Lauren

--

Lauren Bonds
Law Fellow
Service Employees International Union

From: [Lauren Bonds](#)
To: [Cullen, Patrick](#)
Subject: Re: McDonald's, 05-CA-121638
Date: Tuesday, February 18, 2014 2:10:50 PM

Hi Patrick,

Sorry for the delay in getting back to you. I spoke with Guillermo and (b) (6), (b) (7)(C) would like to go forward with the charge. Apparently (b) (6), (b) (7)(C) lost the address and was unable to make it to the union hall last Wednesday. (b) (6), (b) (7)(C) is willing to come to you in Baltimore. Can you fit (b) (6), (b) (7)(C) in on any of the following dates in pm?

- Tuesday February 25, 2014
- Thursday February 27, 2014
- Friday February 28, 2014

Thank you so much for your patience.

Best,

Lauren

On Fri, Feb 14, 2014 at 12:02 PM, Cullen, Patrick <Patrick.Cullen@nlrb.gov> wrote:

Good morning Lauren. I hope you've made it through the snow okay.

Has the Union made a decision about how it wants to proceed with this charge?

If you want to withdraw it, the Region will accept a withdrawal request by email.

If the Union doesn't want to withdraw the charge, please let me know how and when the Union anticipates submitting (b) (6), (b) (7)(C) testimony. As we discussed on Wednesday, I anticipate that the Region will dismiss this charge by early next week if (b) (6), (b) (7)(C) hasn't provided a statement by then, and I also anticipate that the Acting RD will not authorize me to take another trip to Richmond. But, if (b) (6), (b) (7)(C) can appear at our Washington or Baltimore offices, please let me know.

I'm working out of the office today, but you can reach me by email.

Very truly yours,

Patrick J. Cullen, Senior Field Attorney

National Labor Relations Board, Region 5

From: Lauren Bonds [mailto:lauren.bonds@seiu.org]

Sent: Tuesday, February 11, 2014 5:39 PM

To: Cullen, Patrick

Cc: Guillermo Zamora

Subject: Statements Tomorrow

Hi Patrick,

I hope you are well. With the storm, I wanted to make sure that you will be able to make it tomorrow. You can let me know via email or call if anything changes.

Best,

Lauren

--

Lauren Bonds

Law Fellow

Service Employees International Union

--

Lauren Bonds

Law Fellow

Service Employees International Union

C-CASE DISPOSITION FORM

FROM: Patrick J. Cullen, Field Attorney DATE: February 19, 2014

CASE NAME: FWL & Sons Inc. d/b/a McDonald's & McDonald's Corp. as Joint and Single Employers

CASE NUMBER: 05-CA-121638

SCOPE: ☒ **Full** ☐ **Partial:**

IF PARTIAL, CATS _____

allegations disposed _____

of by this action: _____

CATS _____

allegations _____

remaining: _____

DATE OF ISSUANCE OF DISMISSAL OR WITHDRAWAL OR DEFERRAL LETTER: _____

DISMISSAL WINDOW		DEFERRAL WINDOW	
ADJUSTED: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> COLLYER DEFERRAL: <input type="checkbox"/> Written <input type="checkbox"/> Verbal		
DISMISSAL LANGUAGE: <input type="checkbox"/> Short form	WILLINGNESS DATE: _____		
<input type="checkbox"/> Long form	<input type="checkbox"/> OTHER DEFERRAL: _____ (specify)		
	DATE PROCESSING RESUMED: _____		
WITHDRAWAL WINDOW		SPIELBERG REVIEW WINDOW	
CONDITIONAL: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	DATE REVIEW REQUESTED: _____		
SOLICITED: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	PARTY REQUESTING REVIEW: <input type="checkbox"/> Charging Party		
ADJUSTED: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Charged Party		
ORAL: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	DETERMINATION: <input type="checkbox"/> Defer to Award		
IF ORAL, BY: _____	<input type="checkbox"/> NOT Defer to Award		
DATE APPROVED BY RD: _____	DETERMINATION DATE: _____		
BOARD SETTLEMENT WINDOW		CLOSING INFORMATION WINDOW	
PARTICIPATION: <input type="checkbox"/> All Party <input type="checkbox"/> Unilateral	METHOD: <input type="checkbox"/> Withdrawal, Adjusted		
If unilateral, date of letter	<input checked="" type="checkbox"/> Withdrawal, NOT Adjusted		
to parties proposing approval: _____	<input type="checkbox"/> Dismissal, Adjusted		
Proposed Approval Date: _____	<input type="checkbox"/> Dismissal, NOT Adjusted		
Date Approved by RD: _____	TIMING: <input checked="" type="checkbox"/> Before CNH		
	<input type="checkbox"/> After CNH, Before hearing		
	<input type="checkbox"/> After CNH, After hearing opened		
	<input type="checkbox"/> After CNH, After hearing closed		
EXPLANATION:			

(b) (5)

on 2/19/14, Union submitted written request to withdraw charge.

APPROVED

Team Supervisor _____ Date _____ Regional Attorney _____ Date _____

Asst Regional Director _____ Date _____ Regional Director _____ Date _____

From: [Cullen, Patrick](#)
To: [Sawyer, Paula S.](#)
Subject: FW: Withdrawal Request 05-CA-121638
Date: Wednesday, February 19, 2014 2:52:00 PM
Attachments: [FWL & Sons Withdrawal.pdf](#)

Paula:

The Union requested to withdraw its charge.

The withdrawal request is attached to this email, and a [copy is in NxGen](#).

The case file contains the [LOG](#) and [FIR/Dispo Sheet](#).

Patrick

From: Lauren Bonds [mailto:lauren.bonds@seiu.org]
Sent: Wednesday, February 19, 2014 12:03 PM
To: Cullen, Patrick
Subject: Withdrawal Request 05-CA-121638

Hello Patrick,

I spoke with (b) (6), (b) (7)(C) and the Southern Worker Organizing Committee organizer Guillermo Zamora and they decided to withdraw the case. Please find the withdrawal request attached to this email. Let me know if you need anything else.

Best,

Lauren

--

Lauren Bonds
Law Fellow
Service Employees International Union

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

WITHDRAWAL REQUEST

In the matter of FWL + Sons d/b/a McDonald's 05-CA-121638
(Name of case) (Number of case)

This is to request withdrawal of the (petition) (charge) in the above case.

Southern Workers Organizing Committee
(Name of Party Filing)

Withdrawal request approved

By Lauren Bonds
(Name of Representative)

(Date)

Attorney
(Title)

Regional Director,
National Labor Relations Board.

Date 2/19/14

From: [Shuster, Steven L.](#)
To: [Graves, Monica A.](#); [Logan, Michelle K.](#)
Cc: [Hunt, Emily N.](#); [Sawyer, Paula S.](#)
Subject: RE: FOR SIGNATURE - (FW: Withdrawal Request 05-CA-121638)
Date: Tuesday, March 25, 2014 3:49:10 PM

The letter is approved and can issue.

From: Graves, Monica A.
Sent: Tuesday, March 25, 2014 2:51 PM
To: Shuster, Steven L.
Subject: FW: FOR SIGNATURE - (FW: Withdrawal Request 05-CA-121638)

FOR SIGNATURE, SIR.

THANKS!

From: Logan, Michelle K.
Sent: Tuesday, March 25, 2014 2:46 PM
To: Graves, Monica A.
Cc: Mitchell, Waynetta
Subject: RE: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

He's been added!

Thanks,

Ms. Michelle K. Logan

Secretary to John D. Doyle, Esq.
Deputy Regional Attorney
National Labor Relations Board Region 5 - Baltimore
Bank of America Center, Tower II
100 S. Charles Street. 6th Floor
Baltimore, MD 21201
410-962-2266(direct line)
410-962-2198 (fax)

From: Graves, Monica A.
Sent: Tuesday, March 25, 2014 2:40 PM
To: Logan, Michelle K.
Cc: Mitchell, Waynetta
Subject: RE: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

He's on the Participant List in NxGen.

From: Logan, Michelle K.
Sent: Tuesday, March 25, 2014 2:37 PM
To: Graves, Monica A.

Cc: Mitchell, Waynetta
Subject: RE: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

Who is he affiliated with?

Ms. Michelle K. Logan

Secretary to John D. Doyle, Esq.
Deputy Regional Attorney
National Labor Relations Board Region 5 - Baltimore
Bank of America Center, Tower II
100 S. Charles Street. 6th Floor
Baltimore, MD 21201
410-962-2266(direct line)
410-962-2198 (fax)

From: Graves, Monica A.
Sent: Tuesday, March 25, 2014 2:32 PM
To: Logan, Michelle K.
Cc: Mitchell, Waynetta
Subject: FW: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

Hi,

I believe **Brian J. Sharpe, Esq.** should be added to the list of addressees on the letter.

From: Logan, Michelle K.
Sent: Tuesday, March 25, 2014 2:21 PM
To: Graves, Monica A.
Subject: FW: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

Hi Ms. Monica:

This W/D is ready for final approval!

Thanks,

Ms. Michelle K. Logan

Secretary to John D. Doyle, Esq.
Deputy Regional Attorney
National Labor Relations Board Region 5 - Baltimore
Bank of America Center, Tower II
100 S. Charles Street. 6th Floor
Baltimore, MD 21201
410-962-2266(direct line)
410-962-2198 (fax)

From: Mitchell, Waynetta
Sent: Tuesday, March 25, 2014 2:20 PM
To: Logan, Michelle K.
Subject: RE: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

Michelle,

I have proofed your withdrawal letter for 05-CA-121638 and it is ready for approval.

Thanks,
Waynetta

From: Logan, Michelle K.
Sent: Tuesday, March 25, 2014 2:15 PM
To: Mitchell, Waynetta
Subject: FW: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

Corrections have been made!

Thanks,

Ms. Michelle K. Logan

Secretary to John D. Doyle, Esq.
Deputy Regional Attorney
National Labor Relations Board Region 5 - Baltimore
Bank of America Center, Tower II
100 S. Charles Street. 6th Floor
Baltimore, MD 21201
410-962-2266(direct line)
410-962-2198 (fax)

From: Chambers, John
Sent: Tuesday, March 25, 2014 12:25 PM
To: Logan, Michelle K.
Cc: Clark, Cathy D.; Graves, Monica A.
Subject: FW: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

Hi Michelle,

Please process this w/d and forward this e-mail chain to Monica when the letter is in NxGen and ready for approval. Also, please send Catherlena and me an e-mail when the letters have been placed in the days' outgoing mail. Thanks!

Cheers!

John M. Chambers

Office Manager
National Labor Relations Board, Region 5

From: Graves, Monica A.
Sent: Tuesday, March 25, 2014 11:28 AM
To: Chambers, John
Subject: FOR TYPING - (FW: Withdrawal Request 05-CA-121638)

FOR TYPING, SIR.

THANKS.

From: Shuster, Steven L.
Sent: Tuesday, March 25, 2014 10:49 AM
To: Graves, Monica A.
Subject: FW: Withdrawal Request 05-CA-121638

This w/d is approved and ready for processing.

From: Fernbach, Karen P.
Sent: Tuesday, March 25, 2014 10:24 AM
To: Shuster, Steven L.; Dunham, Geoffrey
Subject: RE: Withdrawal Request 05-CA-121638

Steve

I approve the withdrawal request as recommended. This must have slipped through the cracks. Thanks for bringing it to my attention.

Karen

From: Shuster, Steven L.
Sent: Tuesday, March 25, 2014 10:15 AM
To: Fernbach, Karen P.; Dunham, Geoffrey
Subject: FW: Withdrawal Request 05-CA-121638

Per your request.

From: Shuster, Steven L.
Sent: Wednesday, February 26, 2014 12:13 PM
To: Kalaris, Mark
Subject: FW: Withdrawal Request 05-CA-121638

From: Shuster, Steven L.
Sent: Thursday, February 20, 2014 1:25 PM
To: Fernbach, Karen P.
Subject: FW: Withdrawal Request 05-CA-121638

Karen we have a McDonald's case the CP wants to w/d because (b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

We would like

clearance to process the w/d.

From: Seidman, Nathan M
Sent: Thursday, February 20, 2014 12:04 PM
To: Shuster, Steven L.
Cc: Sawyer, Paula S.
Subject: FW: Withdrawal Request 05-CA-121638

Because this is a McDonald's case, does it need to be submitted to Region 2 before approving the withdrawal request?

From: Sawyer, Paula S.
Sent: Thursday, February 20, 2014 9:03 AM
To: Seidman, Nathan M
Cc: Cullen, Patrick
Subject: Withdrawal Request 05-CA-121638

I recommend approving this withdrawal request.

The withdrawal request is attached to this email, and a [copy is in NxGen](#).

The case file contains the [LOG](#) and [FIR/Dispo Sheet](#).

FWL & Sons, Inc. d/b/a McDonald's and McDonald's Corp as Joint and Single
Employers
Case 05-CA-121638
Contact Log

02/03/2014, 2:56pm: TC Lauren Bonds, Esq. at (202) 730-7149. (Note on charge from PSS says Michael Okun, Esq. (person who signed charge) wants Region to deal with Bonds.) Asked Bonds about scheduling affidavits. Only witness as of now is (b) (6), (b) (7)(C) was terminated following a 1-day strike on (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) informed Bonds that another EE and striker was terminated about a week before (b) (6) was. U still tracking that down. Bonds believes that (b) (6), (b) (7)(C) is generally available for an affidavit because doesn't think (b) (6) has found another job yet. Offered next Tuesday and Wednesday as dates (2/11 and 2/12). Said I was waiting to see if any additional charges in that area to coordinate travel, but as of right now, those days were best for me. Held off proposing times until seeing (b) (6), (b) (7)(C) availability and whether any new Richmond work comes up. Bond will check (b) (6), (b) (7)(C) availability for those dates and get back to me.

02/03/2014, 2:59pm: VM from Charlene at Jones Day in Chicago. Asking for copy of charge. Call her at (312) 269-4124.

02/03/2014, 3:30pm: TC Charlene. Not sure if filing NOA in this case or if ER will hire local counsel. Wants to know how to get copy of charge. Explained that absent NOA, can view charges in person at Regional office, or can file a FOIA request. Explained FOIA process and directed her to FOIA section of website and pointed out sample letter. Confirmed Region's fax number.

2/04/2014, 10:16am: TC Lauren Bonds. Discussed affidavit scheduling. Said I still wanted to hold off on a firm commitment to see if any other cases came up in the Richmond area that I could coordinate the travel with. Bonds said that (b) (6), (b) (7)(C) was available all day on 2/12. Agreed on this as a tentative date for affidavit, and will confirm date as it gets closer.

02/04/2014 Received NOA for ER

02/07/2014 Received email from Bonds with address for Union hall in Richmond. Sent e-mail to Bonds confirming affidavit appointment for 2/12 at 9:30 a.m. at Union hall.

02/10/2014 Rec'd email from Bonds confirming affidavit appointment and contact information for Union rep. Guillermo Zamora.

- 2/11/2014 Rec'd email from Bonds asking if affidavit still proceeding because of expected snowstorm. Replied that I would be at Union hall as scheduled.
- 02/12/2014 (b) (6), (b) (7)(C) failed to appear at Union hall. Discussed matter with PSS by phone. Waited at Union hall for 60 minutes before returning to Baltimore. Union rep. Zamora tried several times to reach (b) (6), (b) (7)(C) by telephone without success. Zamora then went to look for (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C) home and at the McDonald's where (b) (6), (b) (7)(C) was formerly employed. Informed Union that it was unlikely that Region would authorize another trip for me to take (b) (6), (b) (7)(C) statement in Richmond. Explained that absent withdrawal, charge was likely to be dismissed for lack of cooperation. Explained that (b) (6), (b) (7)(C) could come to BRO or WRO to provide a statement. Union will get back to me.
- 2/14/2014 Emailed Bonds to ask if Union has made a decision about how it wants to proceed with charge.
- 02/18/2014 Rec'd email from Bonds stating that (b) (6), (b) (7)(C) is willing to come to Baltimore to provide affidavit on 2/25, 2/27, or 2/28.
- Discussed plans with SLS (Acting RD), NMS (Acting ARD), and PSS. Region determined that (b) (6), (b) (7)(C) must appear on 2/25 at a time agreeable to Board agent and CP. Inform U that Region will dismiss charge for LOC one hour after appointment time if (b) (6), (b) (7)(C) does not appear and Union has not requested to withdraw charge. If (b) (6), (b) (7)(C) appears and testifies, advise Union that Region may solicit an amended charge depending on contents of (b) (6), (b) (7)(C) testimony (e.g. independent 8(a)(1) conduct).
- 02/18/2014, 5:05pm: TC Bonds. Conveyed Region's decision re: (b) (6), (b) (7)(C) appointment for 2/25 and dismissal, absent withdrawal if (b) (6), (b) (7)(C) fails to appear within one hour of appointment time. Explained that her email said (b) (6), (b) (7)(C) could come for an afternoon appointment. Told her that was fine, but where the allegation is a termination, an affidavit can be lengthy and I couldn't say when (b) (6), (b) (7)(C) would be finished. Said that it could be an hour or two, but also could extend into the evening. Wanted to make her aware of this in case (b) (6), (b) (7)(C) was planning to drive from Richmond and back in one day. Bonds said that (b) (6), (b) (7)(C) was unavailable on 2/26, so wants to check scheduling with (b) (6), (b) (7)(C) and Union.
- Explained that Region may solicit an amended charge depending on (b) (6), (b) (7)(C) testimony. Asked if (b) (6), (b) (7)(C) could provide "big picture" testimony about the events surrounding the strike. Bonds thinks

Union rep Guillermo can testify to this. Said that if Union intends to present (b) (6), (b) (7)(C) as a witness, I needed to know so I could try to find a second agent to assist me; otherwise (b) (6), (b) (7)(C) will have to wait for me to finish Guillermo's statement if they are driving together.

Bonds will contact Union and (b) (6), (b) (7)(C) and get back to me tomorrow morning by phone or email.

02/19/2013

Received withdrawal request from Union by e-mail. Forwarded file to PSS.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

Region 5
Bank of America Center, Tower II
100 S. Charles Street, Suite 600
Baltimore, MD 21201

Agency Website: www.nlr.gov
Telephone: (410) 962-2822
Fax: (410) 962-2198

March 25, 2014

Doreen S. Davis, Esq.
Jones Day
222 E. 41st Street
New York, NY 10017-6739

Re: FWL & Sons, Inc. d/b/a McDonald's and
McDonald's Corp as Joint and Single
Employer
Case 05-CA-121638

Dear Ms. Davis:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/s/ Steven L. Shuster

Steven L. Shuster
Acting Regional Director

cc: Also see page two

cc: (b) (6), (b) (7)(C)
FWL & Sons Inc.
4100 Brook Road
Richmond, VA 23227

Ms. Gloria Santona
McDonald's Corporation
2111 McDonald's Drive
Oak Brook, IL 00523

Michael G. Okun, Esq.
Patterson Harkavy LLP
100 Europa Drive Suite 250
Chapel Hill, NC 27517-2310

Lauren Bonds, Esq.
Security Employees International Union
1800 Massachusetts Avenue, N.W.
Washington, DC 20036

Southern Workers Organizing Committee
324 S. Wilmington Street, #207
Raleigh, NC 27601

Jonathan M. Linas, Esq.
Jones Day
77 W Wacker Drive Suite 3500
Chicago, IL 60601-1701

Thomas R. Chiavetta, Esq.
Jones Day
51 Louisiana Avenue, N.W.
Washington, DC 20001-2113

Brian J. Sharpe, Esq.
LaPointe Law, P.C.
1200 Shermer Road, Suite 310
Northbrook, IL 60062-4500